

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

HENRICO COUNTY SCHOOL BOARD,

Plaintiff,

v.

GREGORY MATTHEWS and TONIE
MATTHEWS, as parents and next friends of
G.M.,

Defendant.

Case No.: 3:18-cv-00110-REP

MEMORANDUM IN SUPPORT OF MOTION TO COMPEL

Henrico County School Board (the “School Board”), by counsel, pursuant to Fed. R. Civ. P. 37 and Local Civil Rule 37, for its Memorandum in Support of its Motion for entry of an Order compelling Defendants Gregory Matthews and Tonie Matthews to provide responses to the School Board’s Request for Production of Documents and compelling Charlotte Hodges to provide complete responses to the School Board’s document subpoena issued in this matter, states as follows:

1. On July 23, 2018, the Court ordered that the School Board was permitted to seek documents from Gregory Matthews (“Mr. Matthews”), Tonie Matthews (“Mrs. Matthews,” together with Mr. Matthews, the “Matthews”) and Charlotte Hodges (“Ms. Hodges”). *See* ECF No. 79 (“7/23/18 Order”), ¶ 1. Pursuant to that order, the Matthews were required to respond to the School Board’s document requests by July 30, 2018, and Ms. Hodges was required to respond to the School Board’s document requests by August 3, 2018. *Id.* at ¶¶ 5-6.

2. The following day, on July 24, 2018, the School Board propounded requests for documents on the Matthews. *See* ECF No. 81 (“Discovery Notice”), at Exhibit 1.

3. The School Board also served a document subpoena on Ms. Hodges. *Id.*

4. The Matthews did not respond to the School Board's document requests.

5. On Friday, August 3, 2018, the School Board, by counsel, contacted the Matthews regarding their failure to provide documents, and agreed to enlarge the time for the Matthews to submit their documents through August 6, 2018. *See* 8/3/18 Email to the Matthews, attached as **Exhibit 1**.

6. To date, the Matthews have neither responded to the School Board's counsel's 8/3/18 email nor produced any documents in response to the July 24, 2018 document requests.

7. On Friday, August 3, 2018, Ms. Hodges served her objections and partial responses to the School Board's document subpoena. A true and accurate copy of the objections and responses from Ms. Hodges, as received by the School Board's counsel, is attached as **Exhibit 2**.

8. That same day, counsel for the School Board emailed Ms. Hodges requesting a conference regarding deficiencies in Ms. Hodges' responses, which included Ms. Hodges' failure to produce phone records, retainer agreements, invoices and other documents relating to the services provided to the Matthews. *See* Email chain attached as **Exhibit 3**, at p. 2. Those efforts to confer continued on August 6, 2018. *Id.* at p. 1.

9. On August 7, 2018, Ms. Hodges emailed a letter to the School Board's counsel but did not provide further documents in response to the School Board's document. *See* 8/7/18 Letter, attached as **Exhibit 4**.

10. Thereafter, the Court entered Orders relating to similar objections and responses from Mr. El-Amin and Ms. Lucas to the School Board's substantially identical document subpoenas. *See* ECF Nos. 99 and 100 (ordering, among other things, that Mr. El-Amin and Ms. Lucas supplement their responses).

11. Counsel for the School Board again contacted Ms. Hodges seeking complete responses to its document subpoena. *See* 8/7/18 Email, attached as **Exhibit 5**.

12. To date, Ms. Hodges has not responded to the School Board's August 7, 2018, email nor has she provided supplemental responses.

13. Depositions in this matter are scheduled for August 20 and 21, 2018. The School Board's ability to prepare for those depositions and elicit testimony on the residency issue in this case will be hampered if the Matthews and Ms. Hodges are not required to provide complete responses to the School Board's document requests.

14. The School Board, by counsel, has in good faith conferred with Ms. Hodges and has attempted to confer with the Matthews in an effort to obtain resolve the parties' discovery dispute; however, the Matthews have refused to provide any responses and Ms. Hodges has not supplemented her responses to the School Board's requests.

15. Accordingly, the School Board respectfully requests that the Court enter an Order compelling the Matthews and Ms. Hodges to provide complete responses to the School Board's document requests in advance of August 20, 2018, when depositions are scheduled to commence on the residence issue.

16. The School Board further requests that the Court award it its costs and fees incurred in connection with the Motion.

17. This Motion is brought in good faith. Granting this Motion will conserve the resources of the parties and of the Court, and will further the ends of justice.

WHEREFORE, the School Board respectfully requests that the Court enter an Order: (1) granting this Motion; (2) compelling Defendants Gregory Matthews and Tonie Matthews to provide responses to the School Board's Request for Production of Documents; (3) compelling

Charlotte Hodges to provide complete responses to the School Board's document subpoena issued in this matter; (4) awarding the School Board its fees and costs incurred in connection with this Motion; and (5) awarding the School Board such further relief as is just and proper.

In accordance with Local Rule 7(J), the School Board requests that the Court rule on this Motion without a hearing.

Date: August 10, 2018

Respectfully submitted,

REED SMITH LLP

/s/ Alison R. W. Toepp

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of August, 2018, a true and correct copy of the foregoing was filed electronically using the CM/ECF system, which will send notice to counsel of record, and that a true and correct copy of the foregoing was served by e-mail and U.S. Mail on the following:

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